

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
) No. 4:06-CV-1064 (CEJ)
Plaintiff,)
)
v.)
)
BETONSPORTS PLC,)
)
Defendant.)
)

GOVERNMENT'S SECOND STATUS REPORT

Plaintiff, United States of America, through counsel undersigned, submits its second status report regarding the Permanent Injunction entered by the Court on November 9, 2006 (Doc. #30). The Court has ordered the parties to inform the Court as to the status of this matter, and whether the case is suitable for dismissal, or entry of judgment in favor of the plaintiff (Doc. #34).

I. COMPLIANCE WITH PERMANENT INJUNCTION

A. Paragraphs 1 through 10 - Ceasing Operations

The defendant states that it has ceased all operations in the United States. The Government has no information to the contrary, and to the best of its knowledge, the defendant is in compliance with paragraphs (1) through (10) of the Court's Order of Permanent Injunction.

B. Paragraph 11 - Telephone Notice

The defendant states that it no longer operates any toll-free telephone services in the United States, except those established to arrange refunds to U.S. residents, as required by

paragraphs 12 and 13. The Government has no information to indicate that this is not the case.

C. Paragraphs 12 and 13 - Refunds

The defendant is not in compliance with these terms of the Permanent Injunction, which require BETONSPORTS PLC to refund the balance of monies deposited with it by U.S. residents prior to July 17, 2006. The defendant states that it is unable to comply with this requirement due to an order of a court in Antigua, which the defendant states puts the control of collection and dissemination of BETONSPORTS PLC assets in the hands of the Antiguan government. Assuming that this is correct, the defendant has not indicated why the ruling of the Antiguan government prevents it from compliance with the Court's Order.

D. Paragraph 14 - Abandonment of Trademarks

The defendant has requested the U.S. Patents and Trademarks Office to withdraw the seven U.S. trademarks it obtained for various of its brand names. The defendant has not indicated whether in fact the trademarks have been withdrawn. Therefore, the defendant is not in compliance with this portion of the Court's Order.

E. Paragraph 15 - Transfer of Domain Names

According to the FBI, BETONSPORTS PLC domain names registered with Register.com, Godaddy and Network Solutions have been transferred to a registrar in the United Kingdom. However, Directnic has refused to transfer domain names until BETONSPORTS PLC supplies it with a required password or passwords. The defendant is not in compliance with this provision of the Court's Order.

F. Paragraph 16 - Web Site Posting

The required posting appears on the home page of BetonSports.com. The United States does not have any indication that the defendant is not in compliance with this requirement of the Order.

G. Paragraph 17 - Telephone Service Posting

The defendant states that it no longer operates any toll-free telephone services in the United States, except those established to arrange refunds to U.S. residents, as required by paragraphs 12 and 13. The United States has no information to the contrary.

H. Paragraph 18 - Full Page Ad

The required advertisement appeared in USA Today on December 29, 2006. The defendant is in compliance with this requirement of the Court's Order.

I. Paragraph 19 - Production of Documents

The defendant is not in compliance with this part of the Order. The defendant has not made documents available to the United States, as required by the Order. The defendant claims that it has no control over documents held in Antigua, which include the business records of BetonSports.com, due to lack of resources. The defendant is also seeking to condition disclosure of its records on settlement of the pending criminal case.¹

¹BETONSPORTS PLC declined to appear at arraignment. The Court has scheduled a hearing on February 2, 2007, at which the defendant will be required to show cause why responsible individuals should not be held in contempt of Court.

II. REQUEST THAT THE COURT RETAIN JURISDICTION

As the defendant has not yet fully complied with the Court's Order, the United States requests the Court to retain jurisdiction in this matter, and set a date in March for entry of judgment in favor of the United States.

Respectfully submitted this 29th day of January, 2007.

For the Plaintiff:

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CERTIFICATE OF SERVICE

I hereby certify that on January 29th, 2007, the foregoing was filed with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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